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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 JAIME RENE LOPEZ-VAAL,
15 Defendant.
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Case No.: 3:16-cr-00995-GPC
3:17-cv-00926-GPC

**ORDER GRANTING IN PART
DEFENDANT'S MOTION UNDER 28
U.S.C. § 2255**

[ECF No. 38]

17 On January 24, 2018, the Court issued an order denying Defendant's motion under
18 28 U.S.C. § 2255 in all respects except for his claim of ineffective assistance of counsel
19 relating to this counsel's failure to file a timely appeal despite Defendant wish to do so.
20 (ECF No. 49.¹) The Court instructed the government to respond to the order by
21 indicating whether it objected to the Court vacating the criminal judgment in this case
22 and re-entering judgment so as to permit Defendant to file a timely appeal. The
23 government has filed a notice indicating that it "does not object to the Court vacating and
24 re-entering judgment in [Defendant's] case consist[ent] with the Court's January 24, 2018
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28 ¹ The Court's docket entry citations refer to Defendant's criminal docket, Case Number 16-cr-995.

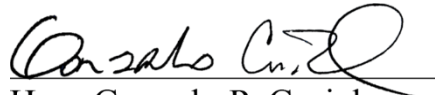
1 order.” (ECF No. 50.) As a result, the Court ORDERS that the criminal judgment in
2 Case Number 16-cr-995 be VACATED and immediately re-entered.

3 In sum, for the reasons explained in the Court’s earlier order (ECF No. 49),
4 Defendant’s § 2255 motion is DENIED in all respects except for his claim that his
5 counsel failed to file a timely appeal despite Defendant indicating to counsel that he
6 wished to file an appeal. As to that aspect of Defendant’s motion, the Court GRANTS
7 the § 2255 motion, VACATES the criminal judgment in this case, and re-enters an
8 identical judgment. The Clerk of Court is respectfully requested to close Civil Case
9 Number 17-cv-926.

10 This case is referred to Magistrate Judge Adler for appointment of counsel.

11 **IT IS SO ORDERED.**

12 Dated: January 26, 2018

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14 Hon. Gonzalo P. Curiel
15 United States District Judge
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